

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**WIRELESS PROTOCOL INNOVATIONS,
INC.,**

Plaintiff,

v.

**TCL CORPORATION,
TCL COMMUNICATION TECHNOLOGY
HOLDINGS LIMITED,
TCT MOBILE (US) INC.,
TCT MOBILE, INC., and
TCT MOBILE (US) HOLDINGS INC.**

Defendants.

Case No. 6:15-cv-00918

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Wireless Protocol Innovations, Inc. (“Plaintiff”) files this Complaint against Defendants TCL Corporation, TCL Communication Technology Holdings Limited, TCT Mobile (US) Inc., TCT Mobile, Inc., and TCT Mobile (US) Holdings Inc. (“Defendants” or “TCL”) for infringement of United States Patent Nos. 6,381,211 (the “211 patent”), 8,274,991 (the “991 patent”), 8,565,256 (the “256 patent”) and 9,125,051 (the “051 patent”).

THE PARTIES

PLAINTIFF

1. Wireless Protocol Innovations, Inc. is a Texas company with its principal place of business at 505 East Travis Street, Suite 203, Marshall, Texas 75670.

DEFENDANTS

2. On information and belief, TCL Corporation is a corporation organized and existing under the laws of the People's Republic of China with its principal place of business at TCL Technology Mansion, No. 17 Huifeng 3rd Road, Zhongkai High-T, Huizhou, Guangdong, 516001 China. On information and belief, this Court has personal jurisdiction over TCL Corporation because TCL Corporation has committed, and continues to commit, acts of infringement in the State of Texas, has conducted business in the State of Texas, and/or has engaged in continuous and systematic activities in the State of Texas.

3. On information and belief, TCL Communication Technology Holdings Limited is a corporation organized and existing under the laws of the People's Republic of China with its principal place of business at 15/F, TCL Tower, Gaoxin Nan Yi Road, Nanshan District, Shenzhen, Guangdong, P.R.C 518057. On information and belief, this Court has personal jurisdiction over TCL Communication Technology Holdings Limited because TCL Communication Technology Holdings Limited has committed, and continues to commit, acts of infringement in the State of Texas, has conducted business in the State of Texas, and/or has engaged in continuous and systematic activities in the State of Texas.

4. On information and belief, TCT Mobile (US) Inc. is a Delaware corporation with its principal place of business in Irvine, California. On information and belief, TCT Mobile (US) Inc. may be served with process through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808. On information and belief, this Court has personal jurisdiction over TCT Mobile (US) Inc. because TCT Mobile (US) Inc. has committed, and continues to commit, acts of infringement in the State of Texas, has conducted

business in the State of Texas, and/or has engaged in continuous and systematic activities in the State of Texas.

5. On information and belief, TCT Mobile, Inc. is a Delaware corporation with its principal place of business in Irvine, California. On information and belief, TCT Mobile, Inc. may be served with process through its agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808. On information and belief, this Court has personal jurisdiction over TCT Mobile, Inc. because TCT Mobile, Inc. has committed, and continues to commit, acts of infringement in the State of Texas, has conducted business in the State of Texas, and/or has engaged in continuous and systematic activities in the State of Texas.

6. On information and belief, TCT Mobile (US) Holdings Inc. is a Delaware corporation with its principal place of business in Irvine, California. On information and belief, TCT Mobile (US) Holdings Inc. may be served with process through its agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808. On information and belief, this Court has personal jurisdiction over TCT Mobile (US) Holdings Inc. because TCT Mobile (US) Holdings Inc. has committed, and continues to commit, acts of infringement in the State of Texas, has conducted business in the State of Texas, and/or has engaged in continuous and systematic activities in the State of Texas.

7. Defendants TCL Corporation, TCL Communication Technology Holdings Limited, TCT Mobile (US) Inc., TCT Mobile, Inc., and TCT Mobile (US) Holdings Inc. are collectively referred to as “Defendants” or “TCL.”

JURISDICTION AND VENUE

8. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

9. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States' patent statutes, 35 U.S.C. § 101 *et seq.*

10. Venue is proper under 28 U.S.C. §§ 1391(c) and 1400(b) because Defendants have committed acts of infringement in this district and/or are deemed to reside in this district.

11. This Court has personal jurisdiction over Defendants and venue is proper in this district because Defendants have committed, and continue to commit, acts of infringement in the state of Texas, including in this district, have conducted business in the state of Texas, including in this district, and/or have engaged in continuous and systematic activities in the state of Texas, including in this district.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 6,381,211)

12. Plaintiff incorporates paragraphs 1 through 11 herein by reference.

13. Plaintiff is the owner and assignee of the '211 patent, entitled "Processing Data Transmitted and Received Over a Wireless Link Connecting a Central Terminal and a Subscriber Terminal of a Wireless Telecommunications System," with ownership of all substantial rights in the '211 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '211 patent is attached as Exhibit A.

14. The '211 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

15. Plaintiff has been damaged as a result of TCL's infringing conduct described in this Count. TCL is thus liable to Plaintiff in an amount that adequately compensates it for their

infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

Direct Infringement

16. On information and belief, TCL has and continues to directly infringe one or more claims of the '211 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claim 107, by, among other things, making, using, offering for sale, selling and/or importing infringing wireless communication devices, including but not limited to the Idol 3, by practicing infringing methods by way of TCL's wireless communication devices, including but not limited to the Idol 3, and/or by directing or controlling the performance of infringing methods, including by customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3. TCL is thereby liable for infringement of the '211 patent pursuant to 35 U.S.C. § 271.

Indirect Infringement – Inducement

17. Based on the information presently available to Plaintiff, absent discovery, and in addition or in the alternative to direct infringement, Plaintiff contends that TCL has and continues to indirectly infringe one or more claims of the '211 patent, including at least claim 107, by inducing others, including customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3, to make, use, sell, offer for sale, and/or import wireless communication devices and/or to practice infringing methods in violation of one or more claims of the '211 patent, including at least claim 107.

18. On information and belief, Defendants TCL Communication Technology Holdings Limited and TCL Corporation have been on notice of the re-examined '211 patent since at least as early as on or about March 13, 2015, or before, but have continued since that

time to cause others to directly infringe the '211 patent as alleged herein. Defendants TCT Mobile (US) Inc., TCT Mobile, Inc., and TCT Mobile (US) Holdings Inc. have been on notice of the '211 patent since at least service of this action, or before, but have continued since that time to cause others to directly infringe the '211 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

19. On information and belief, since TCL has been on notice of the '211 patent, TCL has knowingly induced infringement of the '211 patent, including at least claim 107 of the '211 patent, and possessed specific intent to encourage others' infringement.

20. On information and belief, since TCL has been on notice of the '211 patent, TCL knew or should have known that its actions would induce actual infringement of the '211 patent, including at least claim 107 of the '211 patent, by customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3.

21. For example, since TCL has been on notice of the '211 patent, TCL has purposefully and voluntarily made available wireless communication devices, including but not limited to the Idol 3, with the expectation that they would be utilized by customers and/or end-users in the United States in a way that infringes at least claim 107 of the '211 patent.

22. Since TCL has been on notice of the '211 patent, TCL has also instructed and/or encouraged customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3, to utilize such devices in a way that results in the infringement of at least claim 107 of the '211 patent and has provided support to such customers and/or end-users.

23. TCL has not produced or relied upon an opinion of counsel suggesting that the '211 patent is invalid or is not infringed by TCL's wireless communication devices, including

but not limited to the Idol 3. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

24. TCL has not produced any evidence as to any investigation, design around or that any remedial action was taken with respect to the '211 patent. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 8,274,991)

25. Plaintiff incorporates paragraphs 1 through 11 herein by reference.

26. Plaintiff is the owner and assignee of the '991 patent, entitled "Protocol for Allocating Upstream Slots Over a Link in a Point-to-Multipoint Communication System," with ownership of all substantial rights in the '991 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '991 patent is attached as Exhibit B.

27. The '991 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

28. Plaintiff has been damaged as a result of TCL's infringing conduct described in this Count. TCL is thus liable to Plaintiff in an amount that adequately compensates it for their infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

Direct Infringement

29. On information and belief, TCL has and continues to directly infringe one or more claims of the '991 patent in this judicial district and/or elsewhere in Texas and the United States,

including at least claim 1, by, among other things, making, using, offering for sale, selling and/or importing infringing wireless communication devices, including but not limited to the Idol 3, by practicing infringing methods by way of TCL's wireless communication devices, including but not limited to the Idol 3, and/or by directing or controlling the performance of infringing methods, including by customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3. TCL is thereby liable for infringement of the '991 patent pursuant to 35 U.S.C. § 271.

Indirect Infringement – Inducement

30. Based on the information presently available to Plaintiff, absent discovery, and in addition or in the alternative to direct infringement, Plaintiff contends that TCL has and continues to indirectly infringe one or more claims of the '991 patent, including at least claim 1, by inducing others, including customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3, to make, use, sell, offer for sale, and/or import wireless communication devices and/or to practice infringing methods in violation of one or more claims of the '991 patent, including at least claim 1.

31. On information and belief, Defendants TCL Communication Technology Holdings Limited and TCL Corporation have been on notice of the '991 patent since at least as early as on or about March 13, 2015, or before, but have continued since that time to cause others to directly infringe the '991 patent as alleged herein. Defendants TCT Mobile (US) Inc., TCT Mobile, Inc., and TCT Mobile (US) Holdings Inc. have been on notice of the '991 patent since at least service of this action, or before, but have continued since that time to cause others to directly infringe the '991 patent as alleged herein. In accordance with Fed. R. Civ. P.

11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

32. On information and belief, since TCL has been on notice of the '991 patent, TCL has knowingly induced infringement of the '991 patent, including at least claim 1 of the '991 patent, and possessed specific intent to encourage others' infringement.

33. On information and belief, since TCL has been on notice of the '991 patent, TCL knew or should have known that its actions would induce actual infringement of the '991 patent, including at least claim 1 of the '991 patent, by customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3.

34. For example, since TCL has been on notice of the '991 patent, TCL has purposefully and voluntarily made available wireless communication devices, including but not limited to the Idol 3, with the expectation that they would be utilized by customers and/or end-users in the United States in a way that infringes at least claim 1 of the '991 patent and provides support to such customers and/or end-users.

35. Since TCL has been on notice of the '991 patent, TCL has also instructed and/or encouraged customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3, to utilize such devices in a way that results in the infringement of at least claim 1 of the '991 patent and has provided support to such customers and/or end-users.

36. TCL has not produced or relied upon an opinion of counsel suggesting that the '991 patent is invalid or is not infringed by TCL's wireless communication devices, including but not limited to the Idol 3. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

37. TCL has not produced any evidence as to any investigation, design around or that any remedial action was taken with respect to the '991 patent. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

COUNT III

(INFRINGEMENT OF U.S. PATENT NO. 8,565,256)

38. Plaintiff incorporates paragraphs 1 through 11 herein by reference.

39. Plaintiff is the owner and assignee of the '256 patent, entitled "Protocol for Allocating Upstream Slots Over a Link in a Point-to-Multipoint Communication System," with ownership of all substantial rights in the '256 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '256 patent is attached as Exhibit C.

40. The '256 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

41. Plaintiff has been damaged as a result of TCL's infringing conduct described in this Count. TCL is thus liable to Plaintiff in an amount that adequately compensates it for their infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

Direct Infringement

42. On information and belief, TCL has and continues to directly infringe one or more claims of the '256 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claim 1, by, among other things, making, using, offering for sale, selling and/or importing infringing wireless communication devices, including but not limited to the Idol 3, by

practicing infringing methods by way of TCL's wireless communication devices, including but not limited to the Idol 3, and/or by directing or controlling the performance of infringing methods, including by customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3. TCL is thereby liable for infringement of the '256 patent pursuant to 35 U.S.C. § 271.

Indirect Infringement – Inducement

43. Based on the information presently available to Plaintiff, absent discovery, and in addition or in the alternative to direct infringement, Plaintiff contends that TCL has and continues to indirectly infringe one or more claims of the '256 patent, including at least claim 1, by inducing others, including customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3, to make, use, sell, offer for sale, and/or import wireless communication devices and/or to practice infringing methods in violation of one or more claims of the '256 patent, including at least claim 1.

44. Defendants TCL Communication Technology Holdings Limited and TCL Corporation have been on notice of the '256 patent since at least as early as on or about March 13, 2015, or before, but have continued since that time to cause others to directly infringe the '256 patent as alleged herein. Defendants TCT Mobile (US) Inc., TCT Mobile, Inc., and TCT Mobile (US) Holdings Inc. have been on notice of the '256 patent since at least service of this action, or before, but have continued since that time to cause others to directly infringe the '256 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

45. On information and belief, since TCL has been on notice of the '256 patent, TCL has knowingly induced infringement of the '256 patent, including at least claim 1 of the '256 patent, and possessed specific intent to encourage others' infringement.

46. On information and belief, since TCL has been on notice of the '256 patent, TCL knew or should have known that its actions would induce actual infringement of the '256 patent, including at least claim 1 of the '256 patent, by customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3.

47. For example, since TCL has been on notice of the '256 patent, TCL has purposefully and voluntarily made available wireless communication devices, including but not limited to the Idol 3, with the expectation that they would be utilized by customers and/or end-users in the United States in a way that infringes at least claim 1 of the '256 patent.

48. Since TCL has been on notice of the '256 patent, TCL has also instructed and/or encouraged customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3, to utilize such devices in a way that results in the infringement of at least claim 1 of the '256 patent and has provided support to such customers and/or end-users.

49. TCL has not produced or relied upon an opinion of counsel suggesting that the '256 patent is invalid or is not infringed by TCL's wireless communication devices, including but not limited to the Idol 3. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

50. TCL has not produced any evidence as to any investigation, design around or that any remedial action was taken with respect to the '256 patent. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

COUNT IV

(INFRINGEMENT OF U.S. PATENT NO. 9,125,051)

51. Plaintiff incorporates paragraphs 1 through 11 herein by reference.

52. Plaintiff is the owner and assignee of the '051 patent, entitled "Protocol for Allocating Upstream Slots Over a Link in a Point-to-Multipoint Communication System," with ownership of all substantial rights in the '051 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement. A true and correct copy of the '051 patent is attached as Exhibit D.

53. The '051 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

54. Plaintiff has been damaged as a result of TCL's infringing conduct described in this Count. TCL is thus liable to Plaintiff in an amount that adequately compensates it for their infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

Direct Infringement

55. On information and belief, TCL has and continues to directly infringe one or more claims of the '051 patent in this judicial district and/or elsewhere in Texas and the United States, including at least claim 21, by, among other things, making, using, offering for sale, selling and/or importing infringing wireless communication devices, including but not limited to the Idol 3, by practicing infringing methods by way of TCL's wireless communication devices, including but not limited to the Idol 3, and/or by directing or controlling the performance of infringing methods, including by customers and/or end-users of TCL's wireless communication

devices, including but not limited to the Idol 3. TCL is thereby liable for infringement of the '051 patent pursuant to 35 U.S.C. § 271.

Indirect Infringement – Inducement

56. Based on the information presently available to Plaintiff, absent discovery, and in addition or in the alternative to direct infringement, Plaintiff contends that TCL has and continues to indirectly infringe one or more claims of the '051 patent, including at least claim 21, by inducing others, including customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3, to make, use, sell, offer for sale, and/or import wireless communication devices and/or to practice infringing methods in violation of one or more claims of the '051 patent, including at least claim 21.

57. TCL has been on notice of the '051 patent since at least service of this action, or before, but has continued since that time to cause others to directly infringe the '051 patent as alleged herein. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery on this issue.

58. On information and belief, since TCL has been on notice of the '051 patent, TCL has knowingly induced infringement of the '051 patent, including at least claim 21 of the '051 patent, and possessed specific intent to encourage others' infringement.

59. On information and belief, since TCL has been on notice of the '051 patent, TCL knew or should have known that its actions would induce actual infringement of the '051 patent, including at least claim 21 of the '051 patent, by customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3.

60. For example, since TCL has been on notice of the '051 patent, TCL has purposefully and voluntarily made available wireless communication devices, including but not limited to the Idol 3, with the expectation that they would be utilized by customers and/or end-users in the United States in a way that infringes at least claim 21 of the '051 patent.

61. Since TCL has been on notice of the '051 patent, TCL has also instructed and/or encouraged customers and/or end-users of TCL's wireless communication devices, including but not limited to the Idol 3, to utilize such devices in a way that results in the infringement of at least claim 21 of the '051 patent and has provided support to such customers and/or end-users.

62. TCL has not produced or relied upon an opinion of counsel suggesting that the '051 patent is invalid or is not infringed by TCL's wireless communication devices, including but not limited to the Idol 3. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

63. TCL has not produced any evidence as to any investigation, design around or that any remedial action was taken with respect to the '051 patent. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

ADDITIONAL ALLEGATIONS

64. Plaintiff has been damaged as a result of Defendants' infringing conduct described herein. TCL is thus liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendants' infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284.

65. Defendants' actions complained of herein will continue unless Defendants are enjoined by this Court.

66. Plaintiff has complied with 35 U.S.C. § 287.

67. Defendants' actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendants are enjoined and restrained by this Court.

JURY DEMAND

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff requests that this Court find in its favor and against Defendants, and that this Court grant Plaintiff the following relief:

- a. Enter judgment for Plaintiff on this Complaint;
- b. Enter judgment that one or more claims of the '211, '991, '256, and '051 patents have been infringed, either directly or indirectly by Defendants;
- c. Enter judgment that Defendants account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendants' infringing activities and other conduct complained of herein;
- d. Award Plaintiff damages resulting from Defendants' infringement in accordance with 35 U.S.C. § 284;
- e. Enter a permanent injunction enjoining Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with them, from infringing or inducing infringement of the '211, '991, '256, and '051 patents, or, in the alternative, judgment that Defendants account for and pay to Plaintiff a reasonable royalty and an ongoing post-judgment royalty because of

Defendants' past, present and future infringing activities and other conduct complained of herein;

f. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;

g. Find the case to be exceptional under the provisions of 35 U.S.C. § 285;

h. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: October 23, 2015

Respectfully submitted,

THE SIMON LAW FIRM, P.C.

/s/ Anthony G. Simon

Anthony G. Simon, #38745MO

Michael P. Kella, #64284MO

Benjamin R. Askew, #58933MO

Timothy D. Krieger, #57832MO

800 Market Street, Suite 1700

St. Louis, Missouri 63101

P. 314.241.2929

F. 314.241.2029

asimon@simonlawpc.com

mkella@simonlawpc.com

baskew@simonlawpc.com

tkrieger@simonlawpc.com

Wesley Hill

Texas State Bar No. 24032294

WARD, SMITH & HILL, PLLC

P.O. Box 1231

1127 Judson Road, Ste. 220

Longview, Texas 75606-1231

(903) 757-6400

(903) 757-2323 (fax)

wh@wsfirm.com

ATTORNEYS FOR PLAINTIFF

***WIRELESS PROTOCOL INNOVATIONS,
INC.***